

**Village of Lansing
Board of Zoning Appeals
June 21, 2016**

1 The meeting of the Village of Lansing Board of Zoning Appeals was convened at 7:00 P.M. by
2 Chairperson Lynn Leopold. Present at the meeting were Board members, John Wisor, Patrick
3 Gillespie, Don Eckrich, and Roy Hogben; Code Enforcement Officer Marty Moseley; Village
4 Attorney David Dubow; and Monica Moll.

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6 **Public Comment Period:**

7 Gillespie moved to open the public comment period. Seconded by Wisor; Ayes by Leopold,
8 Gillespie, Eckrich, Wisor, and Hogben. With no one wishing to speak, Eckrich moved to close
9 public comment period; seconded by Hogben; Ayes by Leopold, Gillespie, Eckrich, Wisor, and
10 Hogben.

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12 **Public hearing to consider:**

13 Gillespie moved to open the public hearing for the following requests:

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15 **Appeal No. 2016-03**, Simon and Monica Moll, to demolish an existing 20 feet long x 14
16 feet wide deck and construct a 47 feet long x 19.5 feet wide deck with an enclosed
17 section being 28 feet wide x 19.5 feet long. An area variance is required because a
18 portion of the proposed deck would be out of compliance with Section 145-40 E.(5)(a)[1]
19 of the Village of Lansing Code, which requires a minimum of 20 feet to the side yard
20 property line. The property is located in the Medium Density Residential District, Tax
21 Parcel No. 46.1-1-20 (44 Dart Dr.).

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23 Seconded by Wisor Ayes by Leopold, Gillespie, Eckrich, Wisor, and Hogben.

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25 Moll indicated that she and her husband bought the house some years ago and now the deck
26 needs to be rebuilt. Moll added that six years ago they built a small addition on the back of the
27 house and now it makes sense to rebuild the deck to line up with the addition to square off the
28 house. Moll noted that the rear deck would be covered and would be utilized by her children.

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30 Hogben pointed out that the parcel to the east could be developed as an access point to the large
31 parcel behind 44 Dart Drive.

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33 Moseley added that the area directly to the east of 44 Dart Drive did not appear to be a
34 developable lot. Moseley noted that the proof of mailings has been received.

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36 Moseley provided the following report to the Board:

37 *To: Board of Zoning Appeals*

38 *From: Zoning Department*

39 *Subject: Tax Parcel: 46.1-1-20 (44 Dart Drive)*

40 *Date: June 14, 2016*

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42 **Appeal No. 2016-03:**

43 *Simon and Monica Moll, to demolish an existing 20 feet long x 14 feet wide deck and construct a 47 feet*
44 *long x 19.5 feet wide deck with an enclosed section being 28 feet wide x 19.5 feet long. An area variance is*
45 *required because a portion of the proposed deck would be out of compliance with Section 145-40 E.(5)(a)[1]*
46 *of the Village of Lansing Code, which requires a minimum of 20 feet to the side yard property line. The*
47 *property is located in the Medium Density Residential District, Tax Parcel No. 46.1-1-20.*
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49 **Report:**

50 *The applicants are requesting to remove an existing 14' x 20' deck and construct a deck that 19.5' x 47', which would match the existing*
51 *single family house. A 28'x 19.5' portion of the deck is proposed to be enclosed from the weather. Deck would then be approximately 11 feet*
52 *from the side yard property line on the north side of the deck and 13 feet from side yard property line on the south side of the deck (closest to*
53 *the house).*

54 *The Current Zoning Law, section 145-40 E.(5)(a)[1], indicates that 20 feet is the required minimum for a side yard setback within the*
55 *Medium Density Residential District. The applicant indicates that the proposed aesthetics of the project will be consistent with the existing*
56 *buildings in the area, which appears to be consistent with the existing neighborhood. The proposed deck and enclosure would be on the rear of*
57 *the house/site and would not appear to be seen from the road. It would appear that the existing lot has mature vegetation on the east side,*
58 *which would slightly buffer those neighbors, and there is also existing mature vegetation on the front of the lot which would buffer the*
59 *proposed structure from the road if it could be seen.*

60 **SEQRA:** *Review is not required as this is a single family residential house addition and therefore is exempt.*

61 **Tompkins County Planning Department GML 239 -l and -m GML 239 -l -m and -nn:** *The Tompkins County*
62 *Planning Department is not required to be notified of this variance request in accordance section II E of the inter-municipal agreement.*

63 **Flood Plains:** *The proposed project is not shown within any flood plains.*
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65 *The area variance request is evaluated per the five questions that all area variances are required to answer:*

- 66 a. *Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be*
67 *created by the granting of the area variance.*
68 b. *Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an*
69 *area variance.*
70 c. *Whether the requested area variance is substantial.*
71 d. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood*
72 *or district.*
73 e. *Whether the alleged difficulty was self-created; however, the Board of Zoning*

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75 Eckrich asked where the setbacks are measured to and from the property line. Moseley indicated
76 that the setbacks are measured from the furthest protruding object on the structure, like a roof
77 overhang, to the property line.

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79 Eckrich moved to close the public hearing. Seconded by Gillespie; Ayes by Leopold, Gillespie,
80 Eckrich, Wisor, and Hogben.

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82 After review and evaluation by the Board, Gillespie offered the following resolution with
83 conditions:

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85 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON JUNE 21, 2016**
86 **FOR APPEAL NO. 2016-03**

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89 **Motion made by:** Pat Gillespie

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Motion seconded by: John Wisor

WHEREAS:

- A. *This matter involves consideration of the following proposed action: Appeal No. 2016-03, Simon and Monica Moll, to demolish an existing 20 feet long x 14 feet wide deck and construct a 47 feet long x 19.5 feet wide deck with an enclosed section being 28 feet wide x 19.5 feet long. An area variance is required because a portion of the proposed deck would be out of compliance with Section 145-40 E.(5)(a)[1] of the Village of Lansing Code, which requires a minimum of 20 feet to the side yard property line. The property is located in the Medium Density Residential District, Tax Parcel No. 46.1-1-20; and*
- B. *On June 21, 2016, the Village of Lansing Board of Zoning Appeals held a public hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i) the materials and information presented by and on behalf of the applicant(s) in support of this appeal, (ii) all other information and materials rightfully before the Board, and (iii) all issues raised during the public hearing and/or otherwise raised in the course of the Board’s deliberations; and*
- C. *On June 21, 2016, in accordance with Article 8 of the New York State Environmental Conservation Law - the State Environmental Quality Review Act (“SEQR), and 6 NYCRR Section 617.5, the Village of Lansing Board of Zoning Appeals determined that the proposed action is a Type II action, and thus may be processed without further regard to SEQR; and*
- D. *On June 21, 2016, in accordance with Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing Board of Zoning Appeals, in the course of its deliberations, took into consideration the benefit to the applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;*

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

- 1. *The Village of Lansing Board of Zoning Appeals hereby makes the following findings with respect to the specific criteria for such area variance as set forth in Section 712-b of the Village Law of the State of New York and Village of Lansing Code Section 145-74 A(1):*

Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by granting the area variance.

135 *Finding: No. The proposed addition will enhance the neighborhood and*
136 *community based on the proposed construction aesthetics.*

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139 *Whether the benefit sought by the applicant can be achieved by some method*
140 *feasible for the applicant to pursue other than an area variance.*

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142 *Finding: Yes. The proposed addition could be achieved in other ways, but it*
143 *would be costlier for the applicant to achieve a similar outcome.*

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145 *Whether the requested area variance is substantial.*

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147 *Finding: No. Due to the lot configuration and isolation of the proposed*
148 *addition, compared to surrounding lots, it would not be substantial.*

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150 *Whether the proposed area variance will have an adverse effect or impact on the*
151 *physical or environmental conditions in the neighborhood or district.*

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153 *Finding: No. The proposed addition will have a positive impact on the*
154 *neighborhood or district since it is in keeping with the character of the*
155 *neighborhood.*

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157 *Whether the alleged difficulty was self-created.*

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159 *Finding: Yes. The difficulty was self-created, but due to no or limited impact*
160 *on the neighbors, it would be a benefit.*

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162 *It is hereby determined by the Village of Lansing Board of Zoning Appeals that the*
163 *following variance is **GRANTED AND APPROVED** (with conditions, if any, as*
164 *indicated), it being further determined that such variance is the minimum necessary*
165 *and adequate to grant relief and at the same time preserve and protect the character*
166 *of the neighborhood and the health, safety and welfare of the community:*

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168 **Description of Variance:**

169 *Allow for the (north) side yard setback to be reduced to eleven (11) feet to*
170 *accommodate for an enclosed deck/porch.*

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172 **Conditions of Variance:**

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174 *None*

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176 *The vote on the foregoing motion was as follows:*

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178 *AYES: Lynn Leopold, John Wisor, Pat Gillespie, Don Eckrich, and Roy Hogben*

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180 *NAYS: None*
181 *The motion was declared to be carried.*

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185 **Appeal No. 2016-04**, Simon and Monica Moll, to construct a portico over an existing
186 exterior stairwell. An area variance is required because the new construction would be
187 out of compliance with Section 145-40 E.(5)(a)[1] of the Village of Lansing Code, which
188 requires a minimum of 20 feet to the side yard property line. The property is located in
189 the Medium Density Residential District, Tax Parcel No. 46.1-1-20 (44 Dart Dr.)

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191 Moll indicated that the current stairs have a sump pump installed and they have to leave the
192 doors open on the existing enclosure, during a rain storm, in order to pump the water out of the
193 stairwell. Moll indicated that by having this roof, it would allow less rain to enter into the
194 structure during the rain storms when pumping out the water from the stairwell. Moll added that
195 the drawing is incorrect, and the roof line will be a shed type roof and not a gable type roof. Moll
196 noted that the roof would be built on top of the existing stairwell walls, which currently houses
197 the bilco doors.

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199 Eckrich noted that the height of the structure was approximately 6 feet 10 inches.

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201 Leopold noted that the construction of this roof would allow the homeowner to keep the stairwell
202 and basement dry.

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204 Moseley indicated that he had received proof of mailings, and submitted the following report:

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206 *To: Board of Zoning Appeals*
207 *From: Zoning Department*
208 *Subject: Tax Parcel: 46.1-1-20 (44 Dart Drive)*
209 *Date: June 14, 2016*

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211 **Appeal No. 2016-04:**

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213 *Simon and Monica Moll, to construct a portico over an existing exterior stairwell. An area*
214 *variance is required because the new construction would be out of compliance with Section 145-40*
215 *E.(5)(a)[1] of the Village of Lansing Code, which requires a minimum of 20 feet to the side yard*
216 *property line. The property is located in the Medium Density Residential District, Tax Parcel No.*
217 *46.1-1-20.*

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218 **Report:**

219 *The applicants currently have an exterior entrance way into their basement, which utilizes a Bilco door assembly to keep weather*
220 *out. Currently the applicant has expressed the Bilco doors have not been adequate in the protection of the stairwell from the*
221 *weather and are requesting that a small structure be placed above the exterior stairs, with a roof. The current proposal is to build*
222 *the roof line and keep the rest of the area open, as well as add guards so individuals do not fall into the open stairwell.*

223 *Additional, there is piping that would be run out of the exterior stairwell to drain some of the ground water that may be entering*

224 into the basement or exterior stairwell. Currently the applicant has expressed that they need to have the Bilco doors open in order
225 to accomplish running a sump pump.

226 The proposed structure would be approximately 8 feet from the side yard property line. The Current Zoning Law, section 145-40
227 E.(5)(a)[1], indicates that 20 feet is the required minimum for a side yard setback within the Medium Density Residential
228 District. The applicant indicates that the proposed aesthetics of the project will be consistent with the existing buildings in the
229 area, which appears to be consistent with the existing neighborhood construction. It would appear that the existing lot has mature
230 vegetation on the east side, which would slightly buffer those neighbors, and there is also existing mature vegetation on the front
231 of the lot which would buffer the proposed structure from the road.

232 **SEQRA:** Review is not required as this is a single family residential house addition and therefore is exempt.

233 **Tompkins County Planning Department GML 239 -l and -m GML 239 -l -m and -nn:** The Tompkins
234 County Planning Department is not required to be notified of this variance request in accordance section II E of the inter-
235 municipal agreement.

236 **Flood Plains:** The proposed project is not shown within any flood plains.

237 The area variance request is evaluated per the five questions that all area variances are required to answer:

- 238 a. Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties
239 will be created by the granting of the area variance.
- 240 b. Whether the benefits sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other
241 than an area variance.
- 242 c. Whether the requested area variance is substantial.
- 243 d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the
244 neighborhood or district.
- 245 e. Whether the alleged difficulty was self-created; however, the Board of Zoning

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247 Eckrich moved to close the public hearing. Seconded by Gillespie; Ayes by Leopold, Gillespie,
248 Eckrich, Wisor, and Hogben.

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250 After review and evaluation by the Board, Hogben moved the following resolution with
251 conditions:

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253 **VILLAGE OF LANSING BOARD OF ZONING APPEALS RESOLUTION ADOPTED ON**
254 **JUNE 21, 2016 FOR APPEAL NO. 2016-04**
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257 Motion made by: Roy Hogben
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259 Motion seconded by: Pat Gillespie

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261 **WHEREAS:**

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263 E. This matter involves consideration of the following proposed action: Appeal No.
264 2016-04, Simon and Monica Moll, to construct a portico over an existing exterior
265 stairwell. An area variance is required because the new construction would be out of
266 compliance with Section 145-40 E.(5)(a)[1] of the Village of Lansing Code, which
267 requires a minimum of 20 feet to the side yard property line. The property is located
268 in the Medium Density Residential District, Tax Parcel No. 46.1-1-20; and

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270 F. On June 21, 2016, the Village of Lansing Board of Zoning Appeals held a public
271 hearing regarding such action, and thereafter thoroughly reviewed and analyzed (i)
272 the materials and information presented by and on behalf of the applicant(s) in
273 support of this appeal, (ii) all other information and materials rightfully before the
274 Board, and (iii) all issues raised during the public hearing and/or otherwise raised in
275 the course of the Board's deliberations; and

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277 G. On June 21, 2016, in accordance with Article 8 of the New York State Environmental
278 Conservation Law - the State Environmental Quality Review Act ("SEQR), and 6
279 NYCRR Section 617.5, the Village of Lansing Board of Zoning Appeals determined
280 that the proposed action is a Type II action, and thus may be processed without
281 further regard to SEQR; and

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283 H. On June 21, 2016, in accordance with Section 712-b of the Village Law of the State of
284 New York and Village of Lansing Code Section 145-74 A(1), the Village of Lansing
285 Board of Zoning Appeals, in the course of its deliberations, took into consideration
286 the benefit to the applicant if the area variance is granted as weighed against the
287 detriment to the health, safety and welfare of the neighborhood or community by such
288 grant;

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290 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

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292 The Village of Lansing Board of Zoning Appeals hereby makes the following findings
293 with respect to the specific criteria for such area variance as set forth in Section 712-b of
294 the Village Law of the State of New York and Village of Lansing Code Section 145-74
295 A(1):

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297 Whether an undesirable change will be produced in the character of the
298 neighborhood or detriment to nearby properties will be created by granting the
299 area variance.

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301 Finding: No. The proposed addition is in keeping with the construction of the
302 existing house, and the basement access point is already approximately 8 feet
303 from the side yard property line.

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Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

Finding: No. Due to the existing basement access point being approximately 8 feet from the side yard property line it would not allow for an alternate area for construction. Additionally, the addition will provide for needed drainage for the sump pump in the exterior stairwell.

Whether the requested area variance is substantial.

Finding: No. Based on the exterior basement access point being approximately 8 feet from the property line it would not be substantial.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Finding: No. Based on the existing vegetation existing on the lot, the neighbors will most likely not notice the addition for covering the basement stairs.

Whether the alleged difficulty was self-created.

Finding: Yes. Based on the proposal, it sounds like a proposed addition to cover the stairway is a reasonable solution for weather protection.

- 2. It is hereby determined by the Village of Lansing Board of Zoning Appeals that the following variance is **GRANTED AND APPROVED** (with conditions, if any, as indicated), it being further determined that such variance is the minimum necessary and adequate to grant relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community:*

Description of Variance:

This variance allows for a reduced side-yard setback of 8 feet for an open shed type portico/addition to cover the existing basement stairs. The portico/addition is to be constructed on the existing stairway foundation.

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Conditions of Variance:
None

The vote on the foregoing motion was as follows:

AYES: Lynn Leopold, Roy Hogben, Pat Gillespie, Don Eckrich, and John Wisor

NAYS: None

The motion was declared to be carried.

Approval of Minutes:

Gillespie moved to accept the March 15, 2016 minutes as amended. Seconded by Wisor. Ayes by Leopold, Wisor, Gillespie, and Hogben. Abstention by Eckrich.

Adjournment:

Gillespie moved to adjourn at 7:36 PM. Seconded by Hogben; Ayes by Leopold, Gillespie, Eckrich, Wisor, and Hogben.